

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 07-45854

ARCIE LEE SCOTT,

Chapter 7

Debtor.

Judge Thomas J. Tucker.

SUPPLEMENT TO COURT'S BENCH RULING OF OCTOBER 14, 2009

On October 2, 2009, the Court entered an "Order to Show Cause Why Debtor is Entitled to a Discharge," requiring Debtor to "appear . . . and show cause why the debtor(s) is entitled to discharge in view of 11 U.S.C. § 727(a)(8)." The Court held a hearing on this matter on October 14, 2009. Debtor's attorney appeared at the hearing. At the hearing, the Court determined that Debtor is not entitled to a discharge in this Chapter 7 case in view of 11 U.S.C. § 727(a)(8), because Debtor received a Chapter 7 discharge in a case commenced within 8 years before the date of the filing of the petition for relief in this case. The Court has entered a separate order today, denying Debtor's discharge.

During the October 14, 2009 hearing, Debtor's attorney made an oral motion to vacate, or for relief from, the debtor's voluntary notice of conversion, filed April 13, 2009 (Docket # 54), which notice had the effect of converting this case to Chapter 7. The Court denied that oral motion, for the reasons stated on the record during the hearing. The Court stated that it would file a written supplement to its bench ruling. This is that supplement.

The Court has previously ruled several times, in written orders and in at least one bench opinion, that under 11 U.S.C. § 706(a), the Court may not convert a Chapter 7 case to Chapter 13 at the debtor's request, when the case previously was voluntarily converted from Chapter 13 to Chapter 7. *See, e.g., "Order Denying Debtors' Motion to Reconvert Case to Chapter 13,"* filed October 15, 2008 in *In re Johnson*, Case No. 08-49502 (Docket # 58), and bench opinion transcript attached thereto;¹ *see also In re Banks*, 252 B.R. 399 (Bankr. E.D. Mich. 2000).

Signed on October 14, 2009

/s/ Thomas J. Tucker

Thomas J. Tucker

¹ The Court's October 15, 2009 Order in the *Johnson* case, which has a transcript of the Court's bench opinion from another case attached to it, is available electronically through PACER and also from the Court's website (<http://www.mieb.uscourts.gov/>), in the "Court Opinions" section.

United States Bankruptcy Judge